IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA:	CK	IMINAL NO
v.	:	DATE FILED:
KENNETH WALSH	:	VIOLATIONS: 21 U.S.C. §§ 333(b)(1)(B), 353(c) and 331(t) (illegal sale of prescription drug samples- 1 count)

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At times material to this information:

INTERD CEARED OF AMERICA

DRUG SAMPLES

- 1. The term "drug sample" means a unit of a prescription drug which is not intended to be sold and is intended to promote the sale of the drug. 21 U.S.C. §353(c).
- 2. Under the Prescription Drug Marketing Act ("PDMA"), 21 U.S.C. §353(d), a manufacturer or distributor of a prescription drug may distribute prescription drug samples to a licensed practitioner, or to the pharmacy of a hospital, or another health care entity at the request of a licensed practitioner. Prescription drug samples are not to be delivered to retail pharmacies for sale to consumers. Under the PDMA, no person may sell, purchase, or trade or offer to sell purchase or trade a drug sample. 21 U.S.C. § 353(c)(1).
- 3. The PDMA was enacted for several reasons, one being that "[t]he existing system of providing drug samples to physicians through manufacturer's representatives has been abused

for decades and has resulted in the sale to consumers of misbranded, expired, and adulterated pharmaceuticals." 21 U.S.C. §353 (note).

THE SCHEME

- 4. Defendant KENNETH WALSH was a pharmaceutical sales representative for Searle Pharmaceuticals and was responsible for "detailing" physicians, that is, visiting, educating and delivering free drug samples to physicians for dispensing to patients on a trial basis.
- 5. Defendant KENNETH WALSH falsified the logs tracking the drug samples and then sold the free prescription drug samples to a pharmacist known to the United States Attorney who, in turn, placed the drug samples into the pharmacy's inventory and sold them to consumers.
- 6. The prescription drug samples sold by defendant KENNETH WALSH included, but were not limited to, approximately 10,000 doses of Celebrex and thousands of doses of DayPro, for which defendant WALSH received a total of \$12,000.
- 7. From in or about January 2000 to in or about May 2001, in the Eastern District of Pennsylvania, defendant

KENNETH WALSH

knowingly traded, sold, and offered to trade and sell, thousands of prescription drug samples to a pharmacist known to the United States Attorney.

In violation of Title 21, United States Code, Sections 333(b)(1)(B), 353(c)(1) and 331(t).

PATRICK L. MEEHAN UNITED STATES ATTORNEY

NOTICE OF ADDITIONAL FACTORS

- 1. In committing the offense charged in Count One of this information, defendant KENNETH WALSH:
- a. Committed an offense in which the defendant abused a position of trust public and private trust, as described in U.S.S.G. §3B1.3.
- b. Committed an offense in which the defendant used a special skill, in a manner that significantly facilitated the commission and concealment of the offense, as described in U.S.S.G. § 3B1.3.
- c. Committed an offense in which the loss exceeded \$30,000, as described in U.S.S.G. § 2B1.1(b)(1).